

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1858.—Ordered to be printed.

Mr. POLK submitted the following

REPORT.

[To accompany Bill S. 158.]

The Committee on Claims, to whom was referred the memorial of Anthony S. Robinson, only surviving son and heir of Doctor John H. Robinson, deceased, report:

This claim was examined by the Committee on Claims of the last Congress. This committee has carefully re-examined the case and concur in the views of the former report, to wit:

This was originally a claim against the government of Mexico for compensation for military services, and is alleged to be embraced by the terms of the treaty of Guadalupe Hidalgo, for the payment of which the government of the United States became responsible.

The 14th article of that treaty provides that "The United States do furthermore discharge the Mexican republic from all claims of the citizens of the United States not heretofore decided against the Mexican government, which may have arisen previously to the date of the signature of this treaty." And the 15th article provides that "The United States, exonerating Mexico from all demands on account of the claims of their citizens, mentioned in the preceding article, undertake to make satisfaction for the same," &c.

The claim was presented to the board of commissioners on Mexican claims, and was rejected on the ground that "the board refused to recognize as valid a claim founded solely on military services rendered to a foreign government."

The board lay down the following rule as the law applicable to this class of cases, viz: "When citizens of the United States leave their own country and enter into the service of another, they thereby voluntarily renounce their allegiance, and with it relinquish their right to the protection of the government under which they were born. They are to be regarded as citizens of the country of their adoption, and in whose service they were employed."

The memorialist takes exception to these principles thus laid down

and acted upon by the board as inconsistent with the well settled rules of law, as a violation of the plain provisions of the treaty, and as unjust and oppressive to himself and others.

The decision of the question thus in issue will dispose of the case.

It appears from a letter of the Secretary of State to the chairman of the committee, in answer to inquiries, that the facts of the case, as embodied in the memorial, are substantially the same as they appear upon the records of the board of commissioners, viz: that the said John Hamilton Robinson was a citizen of the United States, and in the beginning of the year 1815, taking a deep interest in the independence of Mexico, he entered the military service of that country, and, in pursuance of a decree of their Congress, he was duly commissioned a brigadier general in the Mexican army, in which capacity he continued in the faithful discharge of his duties until the time of his death, which occurred in 1819, and that he received no compensation for said services or for the losses incident to them, "although by the agreement of the Mexican authorities and the subsequent legislation of the Mexican government he was fully entitled to the same."

To show the intention of General Robinson to return to the United States and retain his character as a citizen thereof, in addition to the fact stated in the memorial that he was so designated in his commission, evidence is submitted that his family continued to reside at Natchez, in the State of Mississippi, and that General Robinson, although still in the Mexican service, returned to Natchez, where he died, and letters of administration were granted on his estate, as "late of said county." The committee are therefore of opinion that, at the time of his death, he was a citizen of the United States, and that he had a just claim against the government of Mexico for personal services rendered under an express contract. It does not arise out of any tort on the part of the Mexican authorities, and could not therefore be the subject of complaint from one government against another; and it is not usual for governments to interpose to enforce the performance of civil contracts between their own subjects and a foreign state any more than it would if the contract were with the private citizens or subjects of such state. In the absence, then, of any law or treaty which would have the effect to make these claims an exception to the general rule, the committee would concur with the board in rejecting the claims, although upon grounds differing from those upon which they have placed their decision.

The treaty of Guadalupe Hidalgo was not exclusively a treaty to adjust the differences and liquidate the wrongs which either government had charged against the other, but it embraced, as a substantive and important feature, the purchase and sale of property and the payment and receipt of money and its equivalents. By its terms, the United States exonerated Mexico from all debts and liabilities due from that government to citizens of the United States, and contracted to liquidate and pay the same, in consideration of three and a half millions of dollars, a portion of the purchase money, for territory acquired.

If General Robinson was a citizen of the United States, having a just claim against the government of Mexico, it is not perceived how

his heirs can be justly and equitably denied payment. The position assumed by the board of commissioners was, that they would not "recognize as valid a claim founded solely on military services rendered to a foreign government." That such service would constitute a just claim against the government to which it was rendered cannot be doubted, whether performed by a citizen or an alien—and there is nothing in the treaty excluding claims of that character. It is true that the 15th article of the treaty provides that the awards of the board "shall be final and conclusive;" but, although this might be interposed as a bar to the recovery of a judgment in a court of law, it is not presumed that Congress would be disposed to assign it as a reason for avoiding an equitable and otherwise just and legal responsibility, especially as a considerable portion of the three and a quarter millions of dollars still remains in the treasury.

This claim appears to have been before the mixed commission under the treaty of 1839, and favorably considered by the American commissioners, but ruled out by the umpire as not being within the cognizance of the board.

It appears from the additional evidence now produced that the compensation allowed by the laws of Mexico to an officer of the grade held by General Robinson, including rations, &c., amounted to the sum of \$4,239 per annum, which, for the period during which he appears to have been in the service, viz: four years, would amount to \$16,956; and for the payment of that sum, to be paid out of the money belonging to Mexican indemnity fund still remaining in the Treasury of the United States, the committee report a bill and recommend its passage.

